

Item 6. *Certificate* Period: Beginning at 12:01 a.m. on \_\_\_\_\_ and continuing to the effective date and time of cancellation or termination of the Master Policy or this *certificate*, whichever first occurs, eastern standard time.

Item 7. Maximum retrospective premium (exclusive of allowance for premium taxes) payable pursuant to Condition 2 of the Master Policy with respect to each *nuclear incident*: \$3,875,000.

Item 8. Premium payable pursuant to Condition 1 of the Master Policy for the period from \_\_\_\_\_ through December 31 following: \$\_\_\_\_.

BOND FOR PAYMENT OF RETROSPECTIVE PREMIUMS

Know All Men By These Presents, that the undersigned do hereby acknowledge that they are named insureds under the Master Policy described in the above Certificate of Insurance and Declarations. The named insureds do hereby covenant with and are held and are firmly bound to the members of Nuclear Energy Liability Insurance Association subscribing the Master Policy (hereinafter called the *companies*) to pay the companies all retrospective premiums and allowances for premium taxes which shall become due and payable in accordance with the Master Policy, as it may be changed from time to time, with interest on such premiums and allowances for taxes to be computed at the rate provided in the Master Policy from the date payment thereof is specified to be due the companies in written notice to the first named insured as provided in Condition 2 of the Master Policy until paid;

And it is hereby expressly agreed that copies of written notices of retrospective premiums and allowances for premium taxes due and payable or other evidence of such amounts due and payable sworn to by a duly authorized representative of the companies shall be prima facie evidence of the fact and extent of the liability of the named insureds for such amounts;

And it is further expressly agreed that the named insureds will indemnify the companies against any and all liability, losses and expenses of whatsoever kind or nature (including but not limited to interest, court cost, and counsel fees) which the companies may sustain or incur (1) by reason of the failure of the named insureds to comply with the covenants and provisions of this Bond and (2) in enforcing any of the covenants or provisions of this Bond, or any provisions of the Master Policy relating to such covenants or provisions;

For the purpose of recording this agreement, a photocopy acknowledged before a Notary Public to be a true copy hereof shall be regarded as an original.

The preceding Certificate of Insurance, Declarations and Bond form a part of the

Master Policy. Cancellation or termination of the Master Policy or the Certificate of Insurance shall not affect the named insured's obligations under the policy or the Bond to pay the retrospective premiums and allowances for premium taxes, as provided in this *Certificate* and Condition 2 of the Master Policy.

In witness whereof, the named insureds have caused the Declaration and the Bond for Payment of Retrospective Premiums to be signed and sealed by a duly authorized officer, to be effective \_\_\_\_\_ eastern standard time.

Attest or Witness

Named Insureds:

By \_\_\_\_\_

(Seal)

(Signature of Officer)

(type or print Name & Title of Officer)

Date: \_\_\_\_\_

In witness whereof, the companies subscribing the Master Policy have caused the Certificate of Insurance and the Declarations to be signed on their behalf by the President of Nuclear Energy Liability Insurance Association to be effective \_\_\_\_\_ eastern standard time, and countersigned below by a duly authorized representative.

For the Subscribing Companies of Nuclear Energy Liability Insurance Association.

By: President \_\_\_\_\_

Countersigned by \_\_\_\_\_

(Authorized Representative)

[49 FR 11153, Mar. 26, 1984]

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

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## Nuclear Regulatory Commission

## § 150.3

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150.33 Criminal penalties.

AUTHORITY: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

SOURCE: 27 FR 1352, Feb. 14, 1962, unless otherwise noted.

### GENERAL PROVISIONS

#### § 150.1 Purpose.

The regulations in this part provide certain exemptions to persons in Agreement States from the licensing requirements contained in chapters 6, 7, and 8 of the Act and from the regulations of the Commission imposing requirements upon persons who receive, possess, use or transfer byproduct material, source, or special nuclear mate-

rial in quantities not sufficient to form a critical mass; and to define activities in Agreement States and in offshore waters over which the regulatory authority of the Commission continues. The provisions of the Act, and regulations of the Commission apply to all persons in Agreement States and in offshore waters engaging in activities over which the regulatory authority of the Commission continues.

[46 FR 44151, Sept. 3, 1981]

#### § 150.2 Scope.

The regulations in this part apply to all States that have entered into agreements with the Commission or the Atomic Energy Commission pursuant to subsection 274b of the Act. This part also gives notice to all persons who knowingly provide to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of §§ 30.10, 40.10, and 70.10.

[56 FR 40693, Aug. 15, 1991]

#### § 150.3 Definitions.

As used in this part:

(a) *Act* means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto;

(b) *Agreement State* means any State with which the Commission or the Atomic Energy Commission has entered into an effective agreement under subsection 274b of the Act. *Non-agreement State* means any other State.

(c) *Byproduct material* means: (1) Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; or (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute *byproduct material* within the definition.

(d) *Commission* means the Nuclear Regulatory Commission or its duly authorized representatives;

(e) *Government agency* means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(f) *Offshore waters* means that area of land and water, beyond Agreement States' Submerged Lands Act jurisdiction, on or above the U.S. Outer Continental Shelf.

(g) *Person* means: (1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, and State or any political subdivision of any political entity within a State, and any legal successor, representative, agent, or agency of the foregoing other than Government agencies;

(h) *Production facility* means:

(1) Any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, including a uranium enrichment facility; or

(2) Any important component part especially designed for such equipment or device as determined by the Commission.

(i) *Source material* means: (1) Uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 61 of the Act to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time;

(j) *Special nuclear material* means: (1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material, but does not include source material;

or (2) any material artificially enriched by any of the foregoing but does not include source material;

(k) *State* means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States; and

(l) *Utilization facility* means: (1) Any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

(m) *Uranium enrichment facility* means:

(1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

[27 FR 1352, Feb. 14, 1962, as amended at 31 FR 15145, Dec. 2, 1966; 40 FR 8794, Mar. 3, 1975; 44 FR 55327, Sept. 26, 1979; 45 FR 18906, Mar. 24, 1980; 46 FR 44152, Sept. 3, 1981; 57 FR 18394, Apr. 30, 1992]

#### § 150.4 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Communications and reports may be delivered in person at the Commission's offices at 2120 L Street NW., Washington, DC, or at 11555 Rockville Pike, Rockville, MD.

[53 FR 6140, Mar. 1, 1988, as amended at 53 FR 43422, Oct. 27, 1988]

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### § 150.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

#### CONTINUED COMMISSION REGULATORY AUTHORITY IN OFFSHORE WATERS

### § 150.7 Persons in offshore waters not exempt.

Persons in offshore waters are not exempt from the Commission's licensing and regulatory requirements with respect to byproduct, source, and special nuclear materials.

[46 FR 44152, Sept. 3, 1981]

### § 150.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). OMB has approved the information collection requirements contained in this part under control number 3150-0032.

(b) The approved information collection requirements contained in this part appear in §§150.16, 150.17, 150.17a, 150.19, 150.20, and 150.31.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In §§150.16 and 150.17, Form NRC-741 is approved under control number 3150-0003.

(2) In §150.20, Form NRC-241 is approved under control number 3150-0013.

[49 FR 19629, May 9, 1984]

#### EXEMPTIONS IN AGREEMENT STATES

### § 150.10 Persons exempt.

Except as provided in §§150.15, 150.16, 150.17, 150.17a, 150.18, and 150.19, any

person in an Agreement State who manufactures, produces, receives, possesses, uses, or transfers byproduct material, source material, or special nuclear material in quantities not sufficient to form a critical mass is exempt from the requirements for a license contained in Chapters 6, 7, and 8 of the Act, regulations of the Commission imposing licensing requirements upon persons who manufacture, produce, receive, possess, use, or transfer such materials, and from regulations of the Commission applicable to licensees. The exemptions in this section do not apply to agencies of the Federal government as defined in §150.3.

[37 FR 9208, May 6, 1972, as amended at 45 FR 50718, July 31, 1980]

### § 150.11 Critical mass.

(a) For the purposes of this part, special nuclear material in quantities not sufficient to form a critical mass means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all kinds of special nuclear materials in combination shall not exceed unity. For example, the following quantities in combination would not exceed the limitation and are within the formula, as follows:

$$(175 \text{ (grams contained U-235/350)} + (50 \text{ grams U-233/200}) + (50 \text{ grams Pu/200}) = 1$$

(b) To determine whether the exemption granted in §150.10 applies to the receipt, possession or use of special nuclear material at any particular plant or other authorized location of use, a person shall include in the quantity computed according to paragraph (a) of this section the total quantity of special nuclear material which he is authorized to receive, possess or use at

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the plant or other location of use at any one time.

[27 FR 1352, Feb. 14, 1962, as amended at 30 FR 12069, Sept. 22, 1965]

### CONTINUED COMMISSION REGULATORY AUTHORITY IN AGREEMENT STATES

#### **§ 150.14 Commission regulatory authority for physical protection.**

Persons in Agreement States possessing, using or transporting special nuclear material of low strategic significance in quantities greater than 15 grams of plutonium or uranium-233 or uranium-235 (enriched to 20 percent or more in the U-235 isotope) or any combination greater than 15 grams when computed by the equation  $\text{grams} = \text{grams uranium-235} + \text{grams plutonium} + \text{grams uranium-233}$  shall meet the physical protection requirements of § 73.67 of 10 CFR part 73.

[44 FR 43285, July 24, 1979, as amended at 44 FR 68199, Nov. 28, 1979]

#### **§ 150.15 Persons not exempt.**

(a) Persons in agreement States are not exempt from the Commission's licensing and regulatory requirements with respect to the following activities:

(1) The construction and operation of any production or utilization facility. As used in this subparagraph, *operation* of a facility includes, but is not limited to (i) the storage and handling of radioactive wastes at the facility site by the person licensed to operate the facility, and (ii) the discharge of radioactive effluents from the facility site.

(2) The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility.

(3) The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials, as defined in regulations or orders of the Commission. For purposes of this part, ocean or sea means any part of the territorial waters of the United States and any part of the international waters.

(4) The transfer, storage or disposal of radioactive waste material resulting from the separation in a production facility of special nuclear material from irradiated nuclear reactor fuel. This subparagraph does not apply to the

transfer, storage or disposal of contaminated equipment.

(5) The disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

(6) The transfer of possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from licensing and regulatory requirements of the Commission under Parts 30 and 40 of this chapter.

(7) The storage of:

(i) Spent fuel in an independent spent fuel storage installation (ISFSI), or

(ii) Spent fuel and high level radioactive waste in a monitored retrievable storage installation (MRS) licensed pursuant to part 72 of this chapter.

(b) Notwithstanding any exemptions provided in this part, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

[27 FR 1352, Feb. 14, 1962, as amended at 34 FR 7369, May 7, 1969; 53 FR 31683, Aug. 19, 1988]

#### **§ 150.15a Continued Commission authority pertaining to byproduct material.**

(a) Prior to the termination of any Agreement State license for byproduct material as defined in § 150.3(c)(2) of this part, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

(b) After November 8, 1981, the Commission reserves the authority to establish minimum standards regarding reclamation, long term surveillance

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(i.e., continued site observation, monitoring and, where necessary, maintenance), and ownership of byproduct material as defined in §150.3(c)(2) of this part and of land used as a disposal site for such material. Such reserved authority includes:

(1) Authority to establish such terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for byproduct material as defined in §150.3(c)(2) of this part, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

(2) The authority to require that prior to termination of any license for byproduct material as defined in §150.3(c)(2) of this part, or for any activity that results in the production of such material, that title to such byproduct material and its disposal site be transferred to the United States or the State in which such material and land is located, at the option of the State (provided such option is exercised prior to termination of the license);

(3) The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or a State pursuant to paragraph (b)(2) of this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger the public health, safety, welfare, or the environment;

(4) The authority to require, in the case of a license for any activity that produces such byproduct material (which license was in effect on November 8, 1981) transfer of land and material pursuant to paragraph (b)(2), of this section, taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or a State.

(5) The authority to require the Secretary of the Department of Energy, other Federal agency, or State, which-

ever has custody of such property and materials, to undertake such monitoring, maintenance and emergency measures as are necessary to protect the public health and safety and other actions at the Commission deems necessary to comply with the standards promulgated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978; and

(6) The authority to enter into arrangements as may be appropriate to assure Federal long term surveillance (i.e., continued site observation, monitoring, and where necessary, maintenance) of such disposal sites on land held in trust by the United States for any Indian tribe or land owned by an Indian tribe and subject to a restriction against alienation imposed by the United States.

[45 FR 65536, Oct. 3, 1980]

### CONTINUED COMMISSION AUTHORITY IN AGREEMENT STATES

#### **§150.16 Submission to Commission of nuclear material transfer reports.**

(a) Each person who transfers and each person who receives special nuclear material pursuant to an Agreement State license shall complete and submit in computer-readable format Nuclear Material Transaction Reports in accordance with instructions (NUREG/BR-0006 and NMMSS Report D-24 "Personal Computer Data Input for NRC Licensees") whenever transferring or receiving a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. Each person who transfers this material shall submit in accordance with instructions the computer-readable format promptly after the transfer takes place. Each person who receives special nuclear material shall submit in accordance with instructions the computer-readable format within ten (10) days after the special nuclear material is received. Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001. These prescribed computer-readable formats replace the DOE/NRC Form 741 which have been previously submitted in paper form.

(b)(1) Each person who, pursuant to an Agreement State License, possesses 1 gram or more of contained uranium-235, uranium-233, or plutonium shall report immediately to the Regional Administrator of the appropriate NRC Regional Office listed in appendix A of part 73 of this chapter, by telephone, any theft or other unlawful diversion of special nuclear material which the licensee is licensed to possess or any incident in which an attempt has been made, or is believed to have been made, to commit a theft or unlawful diversion of special nuclear material.

(2) The licensee shall follow the initial report within a period of 15 days with a written report submitted to the appropriate NRC Regional Office, shown in Appendix A of part 73 of this chapter, which sets forth the details of the incident. The licensee shall send copies of this report to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(3) Subsequent to the submission of the written report required by this paragraph, each licensee shall promptly inform the Regional Administrator of the appropriate NRC Regional Office by means of a written report of any substantive additional information which becomes available to the licensee concerning an attempted or apparent theft or unlawful diversion of special nuclear material.

[39 FR 39559, Nov. 8, 1974, as amended at 41 FR 16447, Apr. 19, 1976; 52 FR 31613, Aug. 21, 1987; 59 FR 35622, July 13, 1994]

**§ 150.17 Submission to Commission of source material reports.**

(a) Except as specified in paragraph (d) of this section and § 150.17a, each person who, pursuant to an Agreement State specific license, transfers or receives or adjusts the inventory in any manner by 1 kilogram or more of uranium or thorium source material of foreign origin or who imports 1 kilogram or more of uranium or thorium source material of any origin shall complete and submit in computer-readable format Nuclear Material Transaction Reports in accordance with instructions (NUREG/BR-0006 and NMSS Report D-24 "Personal Computer Data Input for NRC Licensees").

Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001. Each person who receives the material shall submit in accordance with instructions the computer-readable format within ten (10) days after the material is received.

(b) Except as specified in paragraph (d) of this section and § 150.17a, each person authorized to possess at any one time and location, under an Agreement State license, more than 1,000 kilograms of uranium or thorium, or any combination of uranium or thorium, shall submit to the Commission within 30 days after September 30 of each year, a statement of the licensee's foreign origin source material inventory. This statement must be submitted to the address specified in the printed instructions (NUREG/BR-0007) and must include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee. Copies of the reporting instructions may be obtained by writing to U.S. Nuclear Regulatory Commission, Division of Industrial and Medical Nuclear Safety, Washington, DC 20555.

(c) Except as specified in paragraph (d) of this section, each person who is authorized to possess uranium or thorium pursuant to a specific license from an Agreement State shall report promptly to the appropriate NRC Regional Office shown in Appendix D of part 20 of this chapter by telephone and telegraph, mailgram, or facsimile any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or more than 150 pounds of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the appropriate NRC Regional Office which sets forth the details of the incident and its consequences. Copies of such written report shall be sent to the U.S. Nuclear Regulatory Commission, Division of Industrial and Medical Nuclear Safety, Washington, DC 20555. Subsequent to the submission of the

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written report required by this paragraph, each person subject to the provisions of this paragraph, shall promptly inform the appropriate NRC Regional Office by means of a written report of any substantive additional information, which becomes available to such person, concerning an attempted or apparent theft or unlawful diversion of source material.

(d) The reports described in paragraphs (a), (b), and (c) of this section are not required for:

(1) Processed ores containing less than five (5) percent of uranium or thorium, or any combination of uranium and thorium, by dry weight;

(2) Thorium contained in magnesium-thorium and tungsten-thorium alloys, if the thorium content in the alloys does not exceed 4 percent by weight;

(3) Chemical catalysts containing uranium depleted in the U-235 isotope to 0.4 percent or less, if the uranium content of the catalyst does not exceed 15 percent by weight; or

(4) Any source material contained in non-nuclear end use devices or components, including but not limited to permanently installed shielding, teletherapy, radiography, X-ray, accelerator devices, or munitions.

[35 FR 12196, July 30, 1970, as amended at 36 FR 10938, June 5, 1971; 41 FR 16448, Apr. 19, 1976; 49 FR 24708, June 15, 1984; 51 FR 9767, Mar. 21, 1986; 52 FR 31613, Aug. 21, 1987; 59 FR 35622, July 13, 1994; 60 FR 24553, May 9, 1995]

### **§ 150.17a Compliance with requirements of US/IAEA safeguards agreement.**

(a) For purposes of this section, the terms *effective kilogram*, *ore processing*, *installation*, and *United States eligible list* have the meaning set forth in §75.4 of this chapter.

(b) Each person who, pursuant to an Agreement State License, is authorized to possess source material in amounts greater than one effective kilogram (except in ore processing) is subject to the provisions of part 75 of this chapter and shall comply with its applicable provisions. However, with respect to such persons, the Commission will issue orders under section 274m. of the Act instead of making license amendments; and, to the extent part 75 refers to license amendments and license con-

ditions, such references shall be deemed, for purposes of this paragraph, to refer to orders under section 274m. of the Act.

(c) An applicant for an Agreement State License authorizing possession of source material in amounts greater than one effective kilogram (except in ore processing) shall notify the Commission at least 9 months prior to the date when the applicant desires to receive the source material.

(d) In response to a written request by the Commission, an applicant for an Agreement State License authorizing possession of source material in amounts greater than one effective kilogram (except in ore processing) shall file with the Commission the installation information described in §75.11 of this chapter. The applicant shall also permit verification of such installation information by the International Atomic Energy Agency and take such other action as may be necessary to implement the US/IAEA Safeguards Agreement, in the manner set forth in §75.6 and §§75.11 through 75.14 of this chapter.

[45 FR 50718, July 31, 1980, as amended at 47 FR 9, Jan. 4, 1982]

### **§ 150.19 Submission to Commission of tritium reports.**

(a)-(b) [Reserved]

(c) Except as specified in paragraph (d) of this section, each person who, pursuant to an Agreement State license, is authorized to possess tritium shall report promptly to the appropriate NRC Regional Office as shown in appendix D of part 20 of this chapter by telephone and telegraph, mailgram, or facsimile any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or 100 curies of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the appropriate NRC Regional Office which sets forth the details of the incident and its consequences. Copies of such written report shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory



Commission, Washington, DC 20555. Subsequent to the submission of the written report required by this paragraph, each person subject to the provisions of this paragraph shall promptly inform the appropriate NRC Regional Office by means of a written report of any substantive additional information, which becomes available to such person, concerning an attempted or apparent theft or unlawful diversion of tritium.

(d) The reports described in this section are not required for tritium possessed pursuant to a general license issued pursuant to regulations of an Agreement State equivalent to part 31 of this chapter or for tritium in spent fuel.

[37 FR 9208, May 6, 1972, as amended at 41 FR 16448, Apr. 19, 1976; 46 FR 55085, Nov. 6, 1981; 49 FR 24708, June 15, 1984; 52 FR 31613, Aug. 21, 1987]

#### RECIPROCITY

#### § 150.20 Recognition of Agreement State licenses.

(a) Subject to the provisions of paragraph (b) of this section, any person holding a specific license from an Agreement State where the licensee maintains an office for directing the licensed activity, and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the same activity in non-Agreement States and a general license to conduct the same activity in offshore waters: *Provided*, That the specific license does not limit the activity authorized by either general license to specified installations or locations.

(b) Notwithstanding any provision to the contrary in any specific license issued by an Agreement State to a person engaging in activities in a non-Agreement State or in offshore waters under the general licenses provided in this section, the general licenses provided in this section are subject to the provisions of §§ 30.7(a) through (f), 30.9, 30.10, 30.14(d), 30.34, 30.41, 30.51 to 30.63, inclusive, of part 30 of this chapter; §§ 40.7(a) through (f), 40.9, 40.10, 40.41, 40.51, 40.61, 40.63 inclusive, 40.71 and 40.81 of part 40 of this chapter; §§ 70.7(a) through (f), 70.9, 70.10, 70.32, 70.42, 70.51 to 70.56, inclusive, 70.60 to 70.62, inclu-

sive, and to the provisions of 10 CFR parts 19, 20 and 71 and subpart B of part 34, §§ 39.15 and 39.31 through 39.77, inclusive, of part 39 of this chapter. In addition, any person engaging in activities in non-Agreement States or in offshore waters under the general licenses provided in this section:

(1) Except as specified in paragraph (c) of this section, shall, at least 3 days before engaging in each such activity, file 4 copies of Form-241 (revised), "Report of Proposed Activities in Non-Agreement States," and 4 copies of its Agreement State specific license with the Regional Administrator of the U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D of part 20 of this chapter for the Region in which the Agreement State that issued the license is located. That Regional Administrator may authorize the licensee to begin the activity upon notification by telephone of the licensee's intent to conduct the proposed activity under the general license: *Provided, however*, That 4 copies of Form-241 (revised) and 4 copies of the Agreement State license shall be filed within 3 days after the telephone notification. The Regional Administrator of the U.S. Nuclear Regulatory Commission Regional Office may waive the requirement for filing additional Forms-241 (revised) during the remainder of the calendar year following the receipt of the initial Form-241 (revised) from a person engaging in activities under the general license provided in this section;

(2) Shall not, in any non-Agreement State or in offshore waters, transfer or dispose of radioactive material possessed or used under the general licenses provided in this section, *except* by transfer to a person (i) specifically licensed by the Commission to receive such material, or (ii) exempt from the requirements for a license for such material under § 30.14 of this chapter;

(3) Shall not, under the general license concerning activities in non-Agreement States, possess or use radioactive materials, or engage in the activities authorized in paragraph (a) of this section, for more than 180 days in any calendar year, *except* that, the general license in paragraph (a) of this section concerning activities in offshore

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waters authorizes that person to possess or use radioactive materials, or engage in the activities authorized, for an unlimited period of time.

(4) Shall comply with all terms and conditions of the specific license issued by an Agreement State except such terms or conditions as are contrary to the requirements of this section.

(c) A person engaging in activities in offshore waters under the general license provided for that purpose in paragraph (a) of this section need not file a Form NRC-241 (revised) with the Commission under paragraph (b)(1) of this section, *Provided, That*:

(1) At least 3 days before engaging in each such activity the person notifies the Agreement State that issued the specific license about the activity, including in the notification (i) a description of the activity, (ii) the location, (iii) the dates scheduled, (iv) a list of the sealed sources, or devices containing sealed sources, which will be possessed, used, installed, serviced, or tested, and (v) a description of the type and quantity of radioactive material contained in each sealed source or device; and (2) The Agreement State that issued the specific license is listed in paragraph (d) of this section as having entered into an agreement to perform inspections and other functions for the Commission.

(d) The following Agreement State has entered into an agreement to perform inspections and other functions for the Commission: Louisiana.

[35 FR 7725, May 20, 1970, as amended at 38 FR 1273, Jan. 11, 1973; 46 FR 44152, Sept. 3, 1981; 46 FR 50781, Oct. 15, 1981; 52 FR 41700, Oct. 30, 1987; 55 FR 10406, Mar. 21, 1990; 56 FR 54779, Oct. 23, 1991; 58 FR 52414, Oct. 8, 1993]

### **§ 150.21 Transportation of special nuclear material by aircraft.**

Except as specifically approved by the Commission no shipment of special nuclear material in excess of 20 grams or 20 curies whichever is less of plutonium or uranium-233 shall be made by a licensee of an Agreement State in passenger aircraft.

[38 FR 3039, Feb. 1, 1973]

## ENFORCEMENT

### **§ 150.30 Violations.**

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

[57 FR 55081, Nov. 24, 1992]

### **§ 150.31 Requirements for Agreement State regulation of byproduct material.**

(a) Prior to November 8, 1981, in the licensing and regulation of byproduct material, as defined in § 150.3(c)(2) of this part, or of any activity which results in the production of such byproduct material, an Agreement State shall require compliance with the requirements in appendix A of 10 CFR part 40 of this chapter to the maximum extent practicable.

(b) After November 8, 1981, in the licensing and regulation of byproduct material, as defined in § 150.3(c)(2) of this part, or of any activity which results in the production of such byproduct material, an Agreement State shall require:

(1) Compliance with requirements in appendix A of 10 CFR part 40 of this chapter established by the Commission

pertaining to ownership of such by-product material and disposal sites for such material; and

(2) Compliance with standards which shall be adopted by the Agreement State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards in appendix A of 10 CFR part 40 of this chapter adopted and enforced by the Commission for the same purposes, including requirements and standards subsequently promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to the Uranium Mill Tailing Radiation Control Act of 1978; and

(3) Compliance with procedures which:

(i) In the case of licenses, under State law include:

(A) An opportunity, after public notice, for written comments and a public hearing, with a transcript;

(B) An opportunity for cross examination; and

(C) A written determination by the appropriate State official which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

(ii) In the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

(iii) Require for each licensing action which has a significant impact on the human environment a written analysis by the appropriate State agency (which shall be available to the public before the commencement of any such proceedings) of the impact of such licensing action, including any activities conducted pursuant thereto, on the environment. Such analysis shall include:

(A) An assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such licenses;

(B) An assessment of any impact on any waterway and groundwater resulting from such activities;

(C) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(D) Consideration of the long term impacts, including decommissioning, decontamination, and reclamation impacts associated with activities to be conducted pursuant to such license, including the management of any by-product material, as defined in § 150.3(c)(2) of this part; and

(iv) Prohibit any major construction activity with respect to such material prior to complying with the provisions of paragraph (c)(3) of this section. As used in this paragraph the term *major construction activity* means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

(c) No Agreement State shall be required under paragraph (b) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission.

(d) In adopting requirements pursuant to paragraph (b)(2) of this section, the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety and the environment from radiological and nonradiological hazards associated with the sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with

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section 275. Alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

[45 FR 65537, Oct. 3, 1980, and 50 FR 41866, Oct. 16, 1985]

### **§ 150.32 Funds for reclamation or maintenance of byproduct material.**

(a) The total amount of funds an Agreement State collects, pursuant to a license for byproduct material as defined in § 150.3(c)(2) of this part or for any activity that results in the production of such material, for reclamation or long term maintenance and monitoring of such material, shall after November 8, 1981, be transferred to the United States if title and custody of such material and its disposal site is transferred to the United States upon termination of such license. Such funds include, but are not limited to, sums collected for long term surveillance (i.e., continued site observation, monitoring and, where necessary, maintenance). Such funds do not however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed.

(b) If an Agreement State requires such payments for reclamation or long term surveillance (i.e., continued site observation, monitoring and, where necessary, maintenance), the payments must, after November 8, 1981, be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long term management of such byproduct material and its disposal site.

[45 FR 65537, Oct. 3, 1980; 48 FR 40882, Sept. 12, 1983]

### **§ 150.33 Criminal penalties.**

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 150 are issued under one or more of sections 161b, 161i, or

161o, except for sections listed in paragraph (b) of this section.

(b) The regulations in part 150 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 150.1, 150.2, 150.3, 150.4, 150.5, 150.7, 150.8, 150.10, 150.11, 150.15, 150.15a, 150.30, 150.31, 150.32, and 150.33.

[57 FR 55081, Nov. 24, 1992]

## **PART 160—TRESPASSING ON COMMISSION PROPERTY**

Sec.

160.1 Purpose.

160.2 Scope.

160.3 Trespass.

160.4 Unauthorized introduction of weapons or dangerous materials.

160.5 Violations and penalties.

160.6 Posting.

160.7 Effective date of prohibition on designated locations.

160.8 Applicability of other laws.

AUTHORITY: Sec. 161, 68 Stat. 948, sec. 229, 70 Stat. 1070; 42 U.S.C. 2201, 2278a. Sec. 201(f) 88 Stat. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).

SOURCE: 28 FR 8400, Aug. 16, 1963, unless otherwise noted.

### **§ 160.1 Purpose.**

The regulations in this part are issued for the protection and security of facilities, installations and real property subject to the proprietary jurisdiction or administration, or in the custody of, the Nuclear Regulatory Commission.

[28 FR 8400, Aug. 16, 1963, as amended at 40 FR 8794, Mar. 3, 1975]

### **§ 160.2 Scope.**

The regulations in this part apply to all facilities, installations, and real property subject to the jurisdiction or administration of the Nuclear Regulatory Commission or in its custody which have been posted with a notice of the prohibitions and penalties set forth in this part.

[40 FR 8794, Mar. 3, 1975]

### **§ 160.3 Trespass.**

Unauthorized entry upon any facility, installation or real property subject to this part is prohibited.